

**RESOLUTION OF THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF
NETTLETON, MISSISSIPPI ESTABLISHING A POLICY ON PUBLIC RECORDS
PURSUANT TO THE MISSISSIPPI PUBLIC RECORDS ACT OF 1983**

WHEREAS, the Mayor and Board of Aldermen of the City of Nettleton, Mississippi find it is necessary to develop and maintain a public records policy pursuant to and in conformity with the "Mississippi Public Records Act of 1983".

It is the policy of the Legislature of the State of Mississippi that public records must be available for inspection by any person unless otherwise provided by said act. It shall be likewise, the policy of the City of Nettleton, Mississippi that public records shall be available for inspection by any person unless otherwise provided by this policy.

**THEREFORE BE IT RESOLVED BY THE MAYOR AND BOARD OF
ALDERMEN OF THE CITY OF NETTLETON, MISSISSIPPI, AS FOLLOWS:**

Section 1. The following words shall have the meanings ascribed herein unless the context clearly requires otherwise:

(a) "Public records" shall mean all books, records, papers, accounts, letters, maps, photographs, films, cards, tapes, recordings or reproductions thereof, and any other documentary materials, regardless of physical form or characteristics, having been used, being in use, or prepared, possessed or retained for use in the conduct, transaction or performance of any business, transaction, work, duty or function of the City of Nettleton Mississippi, or required to be maintained by the City of Nettleton, MS

(b) "Data processing software" means the programs and routines used to employ and control the capabilities of data processing hardware, including, but not limited to, operating systems, compilers, assemblers, utilities, library routines, maintenance routines, applications and computer networking programs.

(c) "Proprietary software" means data processing software that is obtained under a licensing agreement and is protected by copyright or trade secret laws.

(d) "Incident report" means a narrative description, if such narrative description exists and if such narrative description does not contain investigative information, of an alleged offense, and at a minimum shall include the name and identification of each person charged with and arrested for the alleged offense, the time, date and location of the alleged offense, and the property involved, to the extent this information is known.

(e) "Investigative report" means records of a law enforcement agency containing information beyond the scope of the matters contained in an incident report, and generally will include, but not be limited to, the following matters if beyond the scope of the matters contained in an incident report:

(i) Records that are compiled in the process of detecting and investigating any unlawful activity or alleged unlawful activity, the disclosure of which would harm the investigation which may include crime scene reports and demonstrative evidence;

(ii) Records that would reveal the identity of informants and/or witnesses;

(iii) Records that would prematurely release information that would impede the public body's enforcement, investigative or detection efforts;

(iv) Records that would disclose investigatory techniques and/or results of investigative techniques;

(v) Records that would deprive a person of a right to a fair trial or an impartial adjudication;

(vi) Records that would endanger the life or safety of a public official or law enforcement personnel, or confidential informants or witnesses;

(vii) Records pertaining to quality control or PEER review activities; or

(viii) Records that would impede or jeopardize a prosecutor's ability to prosecute the alleged offense.

(f) "Law enforcement agency" means a public body that performs as one of its principal functions activities pertaining to the enforcement of criminal laws, the apprehension and investigation of criminal offenders, or the investigation of criminal activities.

Section 2. (1) Except as otherwise provided herein, all public records are hereby declared to be public property, and any person shall have the right to inspect, copy or mechanically reproduce or obtain a reproduction of any public record of the City of Nettleton, MS in accordance with the procedures adopted herein by the City of Nettleton, MS concerning the cost, time, place and method of access. Public notice of the procedures shall be given by the City of Nettleton, MS

(2) Any person seeking public records from the City of Nettleton, MS shall in writing, on a form to be provided by the City of Nettleton, MS state with specificity the nature or type of public record(s) being sought. The City Clerk shall then make a determination whether such record shall be made available pursuant to the Mississippi Public Records Act of 1983. If so, the City Clerk shall determine the fee pursuant to Section 3. herein for the production of same in accordance with the request, and shall provide notice of the fee to the requestor. Upon the receipt of payment for same from the requestor, the request shall be deemed complete, and the City Clerk shall provide the public records within seven (7) working days from the completion of the request.

(3) If any public record contains material which is not exempted under this chapter, the City of Nettleton, Mississippi, shall redact the exempted and make the nonexempted material available for examination. The City of Nettleton, Mississippi shall be entitled to charge a reasonable fee for the redaction of any exempted material, not to exceed the agency's actual cost.

(4) Denial by the City of Nettleton, Mississippi of a request for access to or copies of public records under this section shall be in writing and shall contain a statement of the specific reasons for the denial. The City of Nettleton, Mississippi, shall maintain a file of all denials of requests for public records, and shall preserve such denials on file for not less than three (3) years from the date such denials are made. This file shall be made available for inspection and/or copying during regular office hours to any person upon written request.

Section 3. (1) Except as otherwise provided herein, the City of Nettleton Mississippi may establish and collect fees reasonably calculated to reimburse it for, and in no case to exceed, the actual cost of searching, reviewing and/or duplicating and, if applicable, mailing copies of public records. Such fees shall be collected by the City of Nettleton Mississippi in advance of complying with the request. Such fees shall be set forth in a separate document entitled "Public Records Fee Schedule" and shall be maintained by the City Clerk.

(2) A public body may establish a standard fee scale to reimburse it for the costs of creating, acquiring and maintaining a geographic information system or multipurpose cadastre as authorized and defined under Section 25-61-1 et seq. of the Mississippi Code, or any other electronically accessible data. Such fees must be reasonably related to the cost of creating, acquiring and maintaining the geographic information system, multipurpose cadastre or other electronically accessible data, for the data or information contained therein or taken therefrom and for any records, papers, accounts, maps, photographs, films, cards, tapes, recordings or other materials, data or information relating thereto, whether in printed, digital or other format. In determining the fees or charges under this subsection, the City of Nettleton, Mississippi may consider the type of information requested, the purpose or purposes for which the information has been requested and the commercial value of the information.

Section 4. (1) Records furnished to the City of Nettleton, Mississippi by third parties which contain trade secrets or confidential commercial or financial information shall not be subject to inspection, examination, copying or reproduction under this chapter until notice to said third parties has been given, but such records shall be released within a reasonable period of time unless the said third parties shall have obtained a court order protecting such records as confidential.

(2) If any public record which is held to be exempt from disclosure pursuant to this chapter contains material which is not exempt pursuant to this chapter, the City of Nettleton, Mississippi shall separate the exempt material and make the nonexempt material available for examination and/or copying as provided for in this chapter.

(3) Misappropriation of a trade secret shall be governed by the provisions of the Mississippi Uniform Trade Secrets Act, Sections 75-26-1 through 75-26-19.

(4) Data processing software obtained by an agency under a licensing agreement that prohibits its disclosure and which software is a trade secret, as defined in Section 75-26-3 of the Mississippi Code, and data processing software produced by a public body which is sensitive must not be subject to inspection, copying or reproduction under this chapter.

As used in this subsection, "sensitive" means only those portions of data processing software, including the specifications and documentation, used to:

- (a) Collect, process, store, and retrieve information which is exempt under this chapter.
- (b) Control and direct access authorizations and security measures for automated systems.
- (c) Collect, process, store, and retrieve information, disclosure of which would require a significant intrusion into the business of the City of Nettleton, Mississippi.

Section 5. (1) The City of Nettleton, Mississippi, when using sensitive software, as defined in Section 25-61-9 of the Mississippi Code, or proprietary software must not diminish the right of the public to inspect and copy a public record. When using sensitive software, as defined in Section 25-61-9 of the Mississippi Code, or proprietary software to store, manipulate, or retrieve a public record the City of Nettleton, Mississippi, will not be deemed to have diminished the right of the public if it either: (a) If [if] legally obtainable, makes a copy of the software available to the public for application to the public records stored, manipulated, or retrieved by the software; or (b) ensures that the software has the capacity to create an electronic copy of each public record stored, manipulated, or retrieved by the software in some common format such as, but not limited to, the American Standard Code for Information Interchange.

(2) The City of Nettleton Mississippi shall provide a copy of the record in the format requested if the public body maintains the record in that format, and the public body may charge a fee which must be in accordance with Section 25-61-7 of the Mississippi Code.

(3) Before the City of Nettleton Mississippi acquires or makes a major modification to any information technology system, equipment, or software used to store, retrieve, or manipulate a public record, the public body shall adequately plan for the provision of public access and redaction of exempt or confidential information by the proposed system, equipment or software.

(4) The City of Nettleton Mississippi may not enter into a contract for the creation or maintenance of a public records data base if that contract impairs the ability of the public to inspect or copy the public records, including public records that are on-line or stored in an information technology system used by the City of Nettleton, Mississippi.

Section 6. The provisions of this chapter shall not be construed to conflict with, amend, repeal or supersede any constitutional or statutory law or decision of a court of this state or the United States which at the time of this chapter is effective or thereafter specifically declares a public record to be confidential or privileged, or provides that a public record shall be exempt from the provisions of this chapter.

Section 7. (1) The home address, any telephone number of a privately paid account or other private information of any law enforcement officer, criminal investigator, judge or district attorney or the spouse or child of such law enforcement officer, criminal investigator, judge or district attorney shall be exempt from the Mississippi Public Records Act of 1983. This exemption does not apply to any court transcript or recording if given under oath and not otherwise excluded by law.

(2) (a) When in the possession of a law enforcement agency, investigative reports shall be exempt from the provisions of this chapter; however, a law enforcement agency, in its discretion, may choose to make public all or any part of any investigative report.

(b) Nothing in this chapter shall be construed to prevent the City of Nettleton, Mississippi from having among other public entities a free flow of information for the purpose of achieving a coordinated and effective detection and investigation of unlawful activity. Where the confidentiality of records covered by this section is being determined in a private hearing before a judge under Section 25-61-13 of the Mississippi Code, the City of Nettleton, Mississippi may redact or separate from such records the identity of confidential informants or the identity of the person or persons under investigation or other information other than the nature of the incident, time, date and location.

(c) Nothing in this chapter shall be construed to exempt from public disclosure a law enforcement incident report. An incident report shall be a public record. A law enforcement agency may release information in addition to the information contained in the incident report.

(d) Nothing in this section shall be construed to require the disclosure of information that would reveal the identity of the victim.

(3) Personal information of victims, including victim impact statements and letters of support on behalf of victims that are contained in records on file with the Mississippi Department of Corrections and State Parole Board shall be exempt from the provisions of this chapter.

Following the reading of the foregoing resolution, Alderman JEFF FINCH moved the resolution be adopted, Alderman THOMAS ADAMS seconded the motion for its adoption. The Mayor put the question to a roll call and the result was as follows:

| | | |
|------------------|-------|------------|
| Alderman Adams | voted | <u>YAY</u> |
| Alderman Fulco | voted | <u>YAY</u> |
| Alderman Finch | voted | <u>YAY</u> |
| Alderman Gladney | voted | <u>YAY</u> |
| Alderman Lee | voted | <u>YAY</u> |

The motion having received the affirmative vote of 5 Alderman present, the Mayor declared the motion carried and the resolution adopted, this the 5TH day of

NOVEMBER

2018

ATTEST:

Dana Burcham, City Clerk

Mayor Mem Riley

WRITTEN REQUEST FOR PUBLIC RECORDS

NAME OF PERSON REQUESTING PUBLIC RECORD: _____

ADDRESS: _____

PHONE #: _____

PLEASE GIVE A DETAILED ITEMIZATION OF THE PUBLIC RECORD SOUGHT, INCLUDING A DESCRIPTION OF THE ITEM, ITS LOCATION, THE PURPOSE OF THE REQUEST, AND WHETHER THE PERSON SEEKS INSPECTION OR REPRODUCTION OF THE RECORDS.

NOTICE:

The City Clerk shall inspect the written report and make an initial determination of whether the request is proper. In the event the request is proper, the Clerk shall notify the person requesting the documents of the time and place of the inspection or reproduction, the cost thereof, and the date the documents will be produced or inspected. Prior to the reproduction of, or inspection of any public records, the person requesting the same must prepay the cost of reproduction as is determined under Section 4 of this resolution.

The cost of City employees necessary for inspection or reproductions shall be calculated at that employee rate of salary paid by the City. Upon the prepayment of the requested records, the City Clerk shall cause the public records to be reproduced and or be available to the requesting person within 7 working days thereof.

All inspections or reproductions shall be made in the City Hall except where it is impossible to do so. No Public Records shall be removed from City Hall without the express written consent of the City Clerk.

In the event the City Clerk determines the request is for items not public records or exempt, she shall notify the Mayor and Board of Aldermen who shall determine whether the request is proper. The Mayor and Board of Aldermen shall in any event notify the person of a denial stating the specific reasons therefore within (7) working days of his/her request.

Signature _____

Date: _____

Date received at City Hall: _____

Approved _____ **Denied** _____ **Notice Sent:** _____